

Members

Sen. Patricia Miller, Chairperson
Sen. Brandt Hershman
Sen. John Waterman
Sen. Connie Sipes
Sen. Allie Craycraft
Sen. Larry Lutz
Rep. Timothy Neese, Vice-Chairperson
Rep. Ralph Ayres
Rep. Trent Van Haaften
Rep. Vern Tincher
Rep. David Crooks



INTERIM STUDY COMMITTEE ON CRIMINAL JUSTICE MATTERS

LSA Staff:

Andrew Hedges, Attorney for the Committee
K.C. Norwalk, Attorney for the Committee
Mark Goodpaster, Fiscal Analyst for the Committee

**Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554**

Authority: Legislative Council Resolution 06-01

MEETING MINUTES¹

Meeting Date: September 20, 2006
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St., Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Sen. Patricia Miller, Chairperson; Sen. Brandt Hershman; Sen. Connie Sipes; Sen. Larry Lutz; Rep. Ralph Ayres; Rep. Trent Van Haaften; Rep. Vern Tincher.

Members Absent: Sen. John Waterman; Sen. Allie Craycraft; Rep. Timothy Neese, Vice-Chairperson; Rep. David Crooks.

Senator Miller called the meeting to order at 10:05 a.m.

I. Background checks

Indiana State Police Captain Doug Shelton, acting commander of the ISP's records division, explained that the State Police conducted two types of limited history checks: (1) a name-based check, which costs \$7.00; and (2) a fingerprint-based check, which costs \$10.00. Each check is limited to events that occur in Indiana, and include all arrests that occurred in the previous year, and every arrest with a disposition. However, the check

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

does not reveal arrests that are more than a year old and that do not have a disposition. This is problematic because criminal prosecutions, particularly for serious crimes, may take more than one year to complete. This means that a person who has been arrested on a serious crime and is out on bail may appear to have a clean record.

In addition to the Indiana limited criminal history checks, the State Police also provide national background checks through the FBI. The FBI charges \$24 for these checks and determines which information is received and to whom it may be released.

In response to a question from Senator Miller, Cpt. Shelton suggested that the limited criminal history system be tightened up by including all arrests, including those without a disposition. Indiana cannot affect the FBI's operation of the national background check system.

In response to a question from Representative Van Haaften concerning the expense of expanding the scope of limited criminal history checks, Cpt. Shelton testified that including all arrest dispositions would not increase the costs if the check was name-based, although fingerprint-based checks are more expensive. Offering free background checks to certain organizations would have the effect of increasing the workload, although Cpt. Shelton did not have details on the specific costs.

In response to a question from Senator Sipes, Cpt. Shelton stated that certain name-based background checks can be conducted immediately, and that it would be extremely unusual if a fingerprint-based check took more than two weeks to complete. The background system is currently a mixture of electronic records and paper records, and while digitization and other methods of increasing the electronic component of the checks would improve efficiency, instituting a completely paperless system can probably not be accomplished in the foreseeable future.

In response to a question from Rep. Van Haaften, Cpt. Becker noted that fees from the background checks go to the general fund, not to the State Police, and that a dedicated fund would speed up the process of digitization.

Steve Johnson, executive director of the Indiana Prosecuting Attorney's Council, testified that information placed in the criminal history database is fingerprint based. Approximately 60 counties employ an electronic system called "live scan" in which fingerprints are digitally scanned and electronically transmitted to the database. In those counties without live scan, the prosecuting attorney receives paper fingerprint cards, scans and bar codes the cards, and electronically transfers this information to the criminal history database.

A 1993 audit of the criminal history database by Arthur Andersen revealed that only 58% of all arrests and 12% of all dispositions were included in the database. In 2000, the database only included 15,000 arrest records. By 2003, the database included 150,000 arrest records. However there are still gaps in the arrest data, and certain legacy data may never be included. The greatest problem with current information is caused when a sheriff does not fingerprint an arrestee or fails to transmit a fingerprint card.

In response to a question from Senator Miller, Mr. Johnson suggested that the system could be improved by: (1) moving to a name-based retrieval system; (2) including all dispositions; (3) requiring more uniformity in submitting the fingerprints (possibly requiring fingerprint cards to be completed upon sentencing); and (4) explaining to the public precisely what information is included and not included on the background check. In addition, Mr. Johnson noted that the background check does disclose juvenile records (except to law enforcement agencies) and does not include records from the Department

of Correction, and that the legislature might consider whether it wished to make this information available in a background check.

Mary DePrez testified that the Indiana Supreme Court's Judicial Technology and Automation Committee (JTAC) is implementing a statewide database to connect courts and other agencies electronically, and that this system may be helpful in efficiently transmitting criminal history information. (See Exhibit 1.)

Becky Pryor testified that nonprofit organizations with extensive volunteer programs conducted extensive background checks on their adult volunteers, and that the expense of paying for the checks was substantial. She noted that her nonprofit group assisting seniors conducted between 50-100 background checks per year, and that the checks permitted them to exclude a volunteer with a battery conviction.

II. Next of kin

Legislative Services Agency staff attorney Andrew Hedges described certain revisions to PD 3295 dealing with who may make funeral arrangements if a person who would otherwise be authorized to make funeral arrangements has been arrested in connection with the death of the decedent. (See Exhibit 2.) The committee approved the draft 6-0.

III. Coroner issues

Mike Lindsay, deputy director of the Indiana Law Enforcement Academy (ILEA), testified that the academy would like to assist in the training of coroners and deputy coroners. Due to space constraints at the academy, training should be conducted by the academy, but not at the academy. In addition, academy training of non-law enforcement officers is typically conducted on a pay-as-you-go system, and this should also be the case for coroners and deputy coroners. Finally, the ILEA would like to have a cooperative arrangement with the coroners.

IUPUI Professor Sally Jo Vasicko testified concerning the training of coroners. (See Exhibit 3.)

Legislative Services Agency staff attorney K.C. Norwalk described PD 3300 (Exhibit 4), PD 3292 (Exhibit 5), and proposed constitutional amendment SJ 9601 dealing with coroners (Exhibit 6) to the committee. The committee approved these drafts 7-0.

Senator Miller adjourned the meeting at 11:30.